

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF SOCIAL SERVICES
Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)
16 **DE Admin. Code** 11006

FINAL

ORDER

Determining Relative Child Care

NATURE OF THE PROCEEDINGS:

Delaware Health and Social Services ("Department") / Division of Social Services (DSS) initiated proceedings to amend Division of Social Services Manual (DSSM) regarding Determining Relative Child Care, specifically, to define and explain the requirements for a relative to provide child care services in the child's home. The Department's proceedings to amend its regulations were initiated pursuant to 29 **Del.C.** §10114 and its authority as prescribed by 31 **Del.C.** §512.

The Department published its notice of proposed regulation changes pursuant to 29 **Del. C.** §10115 in the May 2023 *Delaware Register of Regulations*, requiring written materials and suggestions from the public concerning the proposed regulations to be produced by May 31, 2023, at which time the Department would receive information, factual evidence and public comment to the said proposed changes to the regulations.

SUMMARY OF PROPOSAL

Effective for services provided on and after July 11, 2023 the Delaware Health and Social Services (DHSS)/Division of Social Services (DSS) proposes to amend the Division of Social Services Manual (DSSM) section 11006.7 regarding Determining Relative Child Care.

Statutory Authority

45 CFR 98.2
45 CFR 98.41

Background

DSS is revising DSSM 11006.7 to provide instruction for DSS staff and the public on the requirements and limitations for an individual to provide relative child care services in a child's home. DSSM 11006.7 includes the requirements for families who request Purchase of Care funding for a relative to provide child care. DSS received public comments about relative care services for children with special needs. As a result, DSS is amending policy 11006.7 to exempt children with special needs and newborns on a case-by-case basis from the non-traditional hours requirement. DSS is also changing the minimum number of children cared for from four children to one child when a relative provides care in the child's home. These changes will help to eliminate barriers to child care services.

Purpose

The purpose of this proposed regulation is to change the Delaware Social Services Manual (DSSM) 11006.7 to define and explain the requirements for a relative to child care services in the child's home.

Public Notice

In accordance with the *state* public notice requirements of Title 29, Chapter 101 of the **Delaware Code**, DHSS/DSS gave public notice and provided an open comment period for 30 days to allow all stakeholders an opportunity to provide input on the proposed regulation. Comments were to have been received by 4:30 p.m. on May 31, 2023.

Fiscal Impact Statement

DSS is adding the regulation to provide clear and accurate directions on identifying an individual who provides relative in-home child care. This procedure is currently in place and there are no new financial responsibilities associated with the regulation.

Summary of Comments Received with Agency Response and Explanation of Changes

The following summarized comments were received:

Comment: The State Council for Persons with Disabilities (SCPD) appreciates DSS for adopting the proposed changes made by the SCPD.

Agency Response: DSS thanks you for your support.

FINDINGS OF FACT:

The Department finds that the proposed changes as set forth in the May 2023 *Register of Regulations* should be adopted.

THEREFORE, IT IS ORDERED, that the proposed regulation to amend DSSM 11006.7 regarding Determining Relative Child Care specifically, to define and explain the requirements for a relative to provide child care services in a child's home, is adopted and shall be final effective July 11, 2023.

6/13/23

Date of Signature

Molly Magarik, Secretary, DHSS

11000 Child Care Subsidy Program

11006.7 Determining Relative Child Care

Statutory Authority

45 CFR 98.2, 98.41

This policy applies to families who request Purchase of Care funding for a relative to provide child care.

1. The relative providing child care must be related to the child by:

- Marriage,
- Blood relationship, or
- Court decree.

2. The relative providing child care must be related to the child in one of the following relationships:

- Great-Grandparent,
- Grandparent,
- Adult Sibling,
- Aunt, or
- Uncle.

3. The relative provider shall:

- Be 21 years of age or older;
- Only provide care for the children of one family member;
- Not reside in the same home as the children needing care; and
- Only provide care during non-traditional hours that are not normally offered through a licensed child care provider. Relative child care is limited to evening and weekend shift work hours only. Children with "special needs" as defined in DSSM 11003.7.8 and newborns will be reviewed on a case-by-case basis for exemption to the non-traditional hours requirement.

4. The relative provider must successfully complete:

- The "Criminal History, Child Abuse, and Neglect Background Check Request Form". This form must be completed for the relative provider and each individual 18 years of age or older who is living in the relative provider's home;
- The orientation class on relative child care rules and regulations;
- 28 hours of approved training within 12 months of completing the relative child care orientation class;
- Three hours of health and safety training annually; and
- CPR and first aid courses. The relative provider's certifications must be current and re-certifications must be completed every two years.

5. In the children's home, the relative provider shall:

- Care for a minimum of ~~four children~~ one child in the home. The total number of children who are cared for in the home may not exceed a maximum of five children.
- Care for no more than two children under two years of age.
- Care for the children of one family member. The children must be related as siblings.

6. In the relative provider's home, the relative provider shall:

- Care for a minimum of one child in the home. The total number of children who are cared for in the home may not exceed a maximum of five children.
- Care for no more than two children under two years of age.
- Care for the children of one family member. The children must be related as siblings.

Note: Parents and caretakers who need child care during non-traditional hours shall be referred to Delaware's statewide Resource and Referral Agency for assistance in finding a provider.

21 DE Reg. 639 (02/01/18)

27 DE Reg. 49 (07/01/23) (Final)